

REMARKS

The Office Action of May 21, 2004 has been received and reviewed. Claims 1-24 are currently pending in the application, and all pending claims stand rejected. Claims 1, 9, 11, 15 and 17 have been amended as set forth herein. All amendments are made without prejudice or disclaimer. Reconsideration is requested.

Objections to the Claims

Claims 17 was objected to for reciting “said display means” rather than “a display means.” Claim 17 has been amended to correct the informality in accordance with the suggestion of the Examiner. Withdrawal of the objection is requested.

Rejections under 35 U.S.C. § 102

Claims 1, 9 and 21-23 stand rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by Uecker et al. (US Pat 6,240,394). Applicant respectfully traverses the rejections as hereinafter set forth.

Independent claim 1 cannot be anticipated since Uecker et al. does not disclose each and every element of amended claim 1. Amended claim 1 recites in part dispensing a pharmaceutical product having an electronically identifiable tag associated with said pharmaceutical product, electronically reading said electronically identifiable tag of said pharmaceutical product to identify said pharmaceutical product and electronically disclosing said stored pharmaceutical information to said patient, wherein said stored pharmaceutical information is audibly disclosed.

Uecker et al. does not disclose the act of electronically reading the electronically identifiable tag of the pharmaceutical product as recited in amended claim 1. Rather, Uecker et al. discloses “capturing a data record pertaining to a pharmacy transaction as transmitted to a pharmacy printer.” (Uecker et al., Col. 1, lines 47-48). Further, Uecker et al. does not disclose audibly disclosing the stored pharmaceutical information as recited in amended claim 1. Uecker et al. is limited to “transmitting the output message to a printer in the pharmacy, to print an advisory message.” (*Id.* at Col. 1, lines 53-55). Thus, Uecker et al. cannot anticipate amended claim 1.

Claim 9 is not anticipated, at the very least, as depending from novel independent claim 1.

Uecker et al. cannot anticipate independent claim 21 since Uecker et al. does not disclose each and every element of claim 21. Claim 21 is directed to, *inter alia*, a computer-based apparatus for providing pharmaceutical information to a patient comprising an electronic communication device for conveying a message to the patient, an input device for interacting with the patient, and an output device for disclosing the pharmaceutical information to the patient.

Uecker et al. does not disclose an input device for interacting with a patient. In fact, Uecker et al. does not disclose any interaction between a patient and a computer-based apparatus. Further, Uecker et al. does not disclose an electronic communication device for conveying a message to the patient in conjunction with an output device for disclosing the pharmaceutical information to the patient. Rather, Uecker et al. is limited to the use of a printer or printers for printing advisory information for the patients. (*See, Id.* at Col. 3, lines 42 through 56). Thus, claim 21 cannot be anticipated.

Claims 22 and 23 are not anticipated, at the very least, as depending from novel independent claim 21.

Reconsideration and withdrawal of the anticipation rejections of claims 1, 9 and 21-23 and requested.

Rejections under 35 U.S.C. § 103

Claims 11, 12-17 and 19

Claims 11, 12-17 and 19 stand rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Uecker et al. Applicant respectfully traverses the rejection as set forth herein.

A *prima facie* case of obviousness cannot be established with regard to independent claim 11 since Uecker et al. does not teach, suggest or motivate each and every element of amended claim 11. Amended claim 11 recites in part a disclosing means for audibly disclosing said pharmaceutical information to said patient. Uecker et al. does not suggest or motivate the use of a disclosing means for audibly disclosing the pharmaceutical information to the patient as recited in claim 11, but rather is limited to “printing advisory information for the patients.” (Uecker et

al. at Col. 3, line 56). Further, no suggestion or motivation exists in Uecker et al. to audibly disclose any information to the patient and, thus, a *prima facie* case of obviousness cannot be established with regard to amended claim 11.

Claims 12-17 and 19 are nonobvious, at the least, as depending from non-obvious independent claim 11. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." (*In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

With further regard to claim 12, a *prima facie* case of obviousness cannot be established since Uecker et al. does not suggest or motivate the use of an electronic input device for interacting with a patient. The Office Action asserted that Uecker et al. teaches "when selecting an advisory message to be given to the patient, the patient's age, gender, and other data are inputted into the computer in order to give the appropriate advisory message." (Office Action, page 5). However, the system in Uecker et al. does not have an electronic input device for interacting with the patient, but rather the data in the system of Uecker et al. is gathered by "'eavesdrop[ing]' on output data being transmitted by the pharmacy system computer 10." (Uecker et al. at Col. 4, lines 6-8). In fact, there is no suggestion or motivation of any interaction between the pharmacy system computer and a patient in Uecker et al. and, thus, a *prima facie* case of obviousness cannot be established with regard to claim 12.

Accordingly, reconsideration and withdrawal of the obviousness rejections of claims 11, 12-17 and 19 are requested.

Claims 2, 4-6 and 10

Claims 2, 4-6 and 10 stand rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Uecker et al. in view of Catan (US Pat App 2002/0143860). Applicant respectfully traverses the rejection as hereinafter set forth.

Claims 2, 4-6 and 10 are nonobvious, at the very least, as depending from nonobvious independent claim 1. (*See, In re Fine, supra*).

Reconsideration and withdrawal of the obviousness rejections of claims 2, 4-6 and 10 are, thus, requested.

Claims 7, 20 and 24

Claims 7, 20 and 24 stand rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Uecker et al. in view of Stewart (US Pat App 2003/0183683), and over Uecker et al. in combination with Catan and further in view of Kaafarani et al. (US Pat App 2004/0078237). Applicant respectfully traverses the rejection as set forth herein.

Claims 7, 20 and 24 are nonobvious, at the very least, as depending from nonobvious independent claims 1, 11 and 21, respectively. (*See, In re Fine, supra*).

Accordingly, reconsideration and withdrawal of the obviousness rejections of claims 7, 20 and 24 are requested.

CONCLUSION

In view of the amendments and remarks presented herein, applicant respectfully submits that the claims define patentable subject matter and an early notice of allowance is requested. Should questions exist after consideration of the foregoing, the Office is kindly requested to contact applicant's attorney at the address or telephone number given herein.

Respectfully submitted,



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